

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|------------------|---|------------------------|
| JACOB A. YESCAS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. CIV-06-1084-M |
| |) | |
| DRIVE FINANCIAL, |) | |
| |) | |
| Defendant. |) | |

ORDER

Before the Court is plaintiff's Motion for Remand, filed November 1, 2006. On November 20, 2006, defendant filed its objection to plaintiff's motion for remand.

On September 11, 2006, plaintiff filed the instant action in the District Court of Tulsa County, State of Oklahoma. On October 2, 2006, defendant removed this action to the United States District Court for the Western District of Oklahoma. Plaintiff now moves this Court to remand this action to the District Court of Tulsa County, based in part upon "improper removal."

28 U.S.C. § 1441(a) provides, in pertinent part:

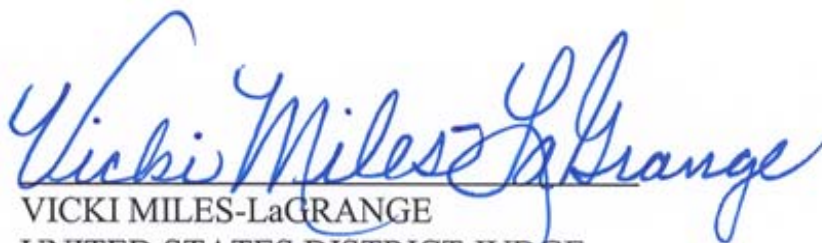
Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending. . . .

28 U.S.C. § 1441(a) (emphasis added). The District Court of Tulsa County is located within the Northern District of Oklahoma not the Western District of Oklahoma. Consequently, the Court finds that venue is not proper in this Court and that this action was improperly removed.¹

¹While this Court recognizes that the above-referenced removal defect is not jurisdictional and can be waived, there has been no waiver as plaintiff specifically raised this issue within thirty days of the notice of removal as required by 28 U.S.C. § 1447(c).

Accordingly, the Court GRANTS plaintiff's Motion for Remand [docket no. 9] and REMANDS this action to the District Court of Tulsa County, State of Oklahoma.

IT IS SO ORDERED this 27th day of April, 2007.



VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE